HON'BLE SHRI JUSTICE NOOTY RAMAMOHANA RAO

W.P. No.12166 of 1998

4.6.2007

Between

The Depot Manager and another ..Petitioners

AND

Dasari Venkata Vittal Rao and another ..Respondents

:: JUDGMENT ::

HON'BLE SHRI JUSTICE NOOTY RAMAMOHANA RAO

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W.P. No.12166 of 1998

This writ petition is preferred against an Award passed by the Labour Court, Guntur in I.D.No.25 of 1997 by the Management of the A.P.S.R.T.C. The first respondent-workman while working as a Conductor is alleged to have committed the misconduct of re-issuing five tickets while conducting the bus on its return journey to Vinukonda. Based upon the evidence collected at the enquiry, the Depot Manager of the A.P.S.R.T.C. had imposed the punishment of removal from service and calling in question the correctness of this action, the respondent workman has instituted the Industrial Dispute referred to supra. The Labour Court had considered the entire material on record and found merit in the contention canvassed on behalf of the workman that prejudice was caused to him as a copy of the Enquiry Officer's report was not made available to him to enable him to offer his comments on the findings recorded by the Enquiry Officer before the punishment of removal is imposed on him. The Labour Court had also considered that in the absence of any specific evidence to show that the respondent workman had in fact collected the tickets which he had issued once before in the onward journey, the allegation that he had re-issued those very tickets appears to be an unsustainable finding. Hence, the Labour Court had exercised the discretion available to it under Section 11 A of the Industrial Disputes Act and accordingly found it to be

a fit case for ordering reinstatement with continuity of service while at the same time, denying the back wages for the period of absence from duty pursuant to the order of removal passed against the workman.

I have heard the learned Standing Counsel -- Sri R.Manmadha Reddy who had contended that the Labour Court had not exercised its discretion properly and correctly and that it had failed to assign reasons as to why the punishment imposed by the competent authority had been found to be disproportionate to the proven element of misconduct on the part of the respondent workman. While the Labour Court is undoubtedly required to assign reasons that weighed with it for substituting a proper punishment for that of the punishment imposed by the competent authority, but, nonetheless a perusal of the record in this case would leave a clear indication as to the lines on which the Labour Court had applied its mind. It is convinced that the material gathered during the course of enquiry is not complete to fasten the gravamen of the charges framed against the workman. Therefore, it felt that the quantum of guilt held established against the respondent is not so serious a one that warranted the imposition of punishment of removal from service. Though the Tribunal had not assigned the necessary reasons in so many words, but the process of reasoning adopted by it is discernible from the record to hold that the punishment of removal from service vis-à-vis the proven element of misconduct on the part of the workman is certainly an excessive punishment. The factum of denying the back wages for the entire period of absence from service pursuant to the order of removal till such time he is reinstated again is

considered as a sufficient enough punishment. I therefore do not find any valid reason for setting aside the order passed by the Labour Court though the Labour Court could have as well assigned detailed reasons for the exercise of discretion indulged in by it.

I therefore do not find any justification to interfere with the Award passed and accordingly, the writ petition is dismissed, but however, without costs.

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NOOTY RAMAMOHANA RAO.J.

4.6.2007

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